

REMARKS

Claims 25 - 27 have been canceled by a prior amendment without prejudice or disclaimer of the subject matter thereof. Applicants reserve the right to pursue the subject matter of any of the canceled claims in the subject application and/or subsequently filed continuing applications.

Claims 1, 9, and 17 have been amended.

Claims 1 - 24 are present in the subject application.

In the Office Action of August 20, 2009, the Examiner has rejected claims 1 - 24 under 35 U.S.C. §103(a). Favorable reconsideration of the subject application is respectfully requested in view of the following remarks.

The Examiner has rejected claims 1 - 2, 7 - 10, 15 - 18, and 23 - 24 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,147,768 (Norris) in view of U.S. Patent No. 5,383,129 (Farrell). In addition, the Examiner has further rejected claims 3 - 6, 11 - 14, and 19 - 22 under 35 U.S.C. §103(a) as being unpatentable over the combination of the Norris and Farrell patents, in view of U.S. Patent No. 5,768,521 (Dedrick).

Applicants gratefully acknowledge the courtesies extended by Examiner Basehoar during the recent telephone Interview of November 23, 2009. During the Interview, the Applicants explained that a present invention embodiment was directed toward creating a content object, such as a book, by a user selecting various individual content portions stored in a repository. The embodiment determines a price for the content object by either estimating the

price based on estimates of the quantity of selected content, or by utilizing an actual price based on the actual quantity of selected content (e.g., prices and content of pre-published material). The utilization of an estimated or actual price is based on a parameter.

The Applicants indicated that the cited Norris patent is directed toward arranging photographic images in a photographic album, and does not disclose the claimed estimation recited within the independent claims. Applicants further indicated that the cited Farrell patent discloses estimation relating to the costs of printing materials used to print a job on a printing apparatus, as opposed to estimating content of selected digital content to determine an estimated price as recited in the independent claims.

The Examiner suggested that further clarification within the independent claims of the estimated content count varying from the actual content count, and the estimated content count relating to a page count may overcome the rejections, but further search and consideration would be needed prior to allowance of the case.

The rejections within the Office Action are respectfully traversed since none of the cited documents disclose determining an estimated price for selected content based on an estimated quantity of the selected content as recited in the claims. However, in order to expedite prosecution of the subject application, independent claims 1, 9, and 17 have been amended to reflect the Examiner's comments pertaining to a page count. The Examiner's suggested limitation of the estimated content count varying from the actual content count is considered to be an inherent property of an estimate which is clearly recited in the claims (e.g., estimated

content count, estimated quantity of content, estimated price, estimated quantity of units, etc.). In particular, independent claims 1, 9, and 17 recite the features of: the estimated price being determined based on a price per unit of content, wherein the unit of content represents a predetermined quantity of content and the estimated content count indicates an estimated quantity of units of content for the selected content entities.

None of the cited documents disclose, teach or suggest these features. Rather, the Norris patent discloses a method and apparatus for arranging photographic images in a photographic album, including means for establishing a signal indicative of a photographic image, storage means for storing said signals indicative of a photographic image and establishing a database of photographs, a video monitor for visually displaying the photographs in the database, second storage means for storing a database of available album mats where each mat represents a particular available configuration for a page of the album, means for selecting from the database of photographic images selected photographic images and establishing a selected photographic image database, means for selecting a page and a location on a selected page for photographs in said selected photograph database and for selecting an album mat to accommodate the selected photographs, thereby establishing pages for the album and means for sequentially viewing each page of the photographic album on the video monitor by viewing the selected photographic images proportioned for the selected location on the selected mat (e.g., See Abstract). A price database includes prices for various sized pictures and various mats, where a customer invoice is calculated from the price database using the picture sizes selected by the central processing unit

which accommodates the selected images on their selected page locations (e.g., See Column 5, lines 16 - 22; and Column 6, lines 12 - 22).

Thus, the Norris patent discloses a photographic album, where the price is determined from the size of the image to be placed on a page. There is no disclosure, teaching or suggestion of estimating the content within the selected items for determining an estimated price or, for that matter, the estimated price being determined based on a price per unit of content, wherein the unit of content represents a predetermined quantity of content and the estimated content count indicates an estimated quantity of units of content for the selected content entities as recited in the independent claims. In fact, the Examiner concedes this point at Page 4 of the Office Action.

The Farrell patent does not compensate for the deficiencies of the Norris patent. Rather, the Farrell patent discloses a method of **estimating cost of printing materials used to print a job on a printing apparatus**. The method includes the steps of: storing billing rates reflecting the **cost of printing materials** to be used in printing the job, selecting a first quantity of printing materials to be used in printing the job, and, prior to printing the job, calculating, as a function of the first selected quantity of printing materials and one of the stored billing rates, a first **printing materials cost** of the job (e.g., See Abstract; Column 3, lines 39 - 40; and Column 7, lines 46 - 47 and 61 - 65; Column 8, lines 34 - 36; and Column 9, lines 14 - 16). Accordingly, there is no disclosure, teaching or suggestion of an estimated price being determined based on a price per unit of content, wherein the unit of content represents a predetermined quantity of content and

the estimated content count indicates an estimated quantity of units of content for the selected content entities as recited in the independent claims.

The Dedrick patent similarly does not compensate for the deficiencies of the Norris and Farrell patents. Rather, the Dedrick patent discloses a computer network system that contains a metering mechanism which can meter the flow of electronic information to a client computer within a network (e.g., See Abstract; Column 1, lines 62 - 65; and Column 2, lines 43 - 64). The information can be generated by a publisher and electronically distributed. The publisher/advertiser is provided with tools to create electronic information transmitted over the system (e.g., See Abstract; Column 1, lines 65 - 66; and Column 4, lines 26 - 51). The client computers each contain a graphical user interface to request consumption of the information (e.g., See Abstract; Column 2, lines 2 - 4; and Column 3, lines 13 - 30). The metering mechanisms control the transfer of information to the client computers (e.g., See Abstract; Column 2, lines 4 - 6; and Column 3, lines 46 - 59). Each unit of information has an associated cost type and cost value that are used to calculate a price for the information (e.g., See Abstract; Column 2, lines 7 - 10; and Column 3, lines 60 - 63).

Thus, the Dedrick patent discloses a publisher creating information for access by an end-user and the price being calculated for the end-user to access or download that information based on a cost type and cost value. There is no disclosure, teaching or suggestion of an estimated price being determined based on a price per unit of content, wherein the unit of content represents a predetermined quantity of content and the estimated content count indicates an

estimated quantity of units of content for the selected content entities as recited in the independent claims.

Accordingly, independent claims 1, 9, and 17 (along with their dependent claims) are considered to be in condition for allowance.

In view of the foregoing, Applicants respectfully request the Examiner to find the application to be in condition for allowance with claims 1 - 24. However, if for any reason the Examiner feels that the application is not now in condition for allowance, the Examiner is respectfully requested to call the undersigned attorney to discuss any unresolved issues and to expedite the disposition of the application.

Filed concurrently herewith is a Petition (with payment) for an Extension of Time of One Month. Applicants hereby petition for any extension of time that may be necessary to maintain the pendency of this application. The Commissioner is hereby authorized to charge payment of any additional fees required for the above-identified application or credit any overpayment to Deposit Account No. 09-0460.

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